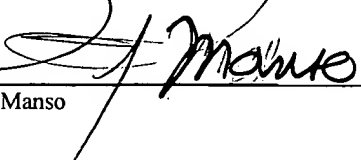


IN THE UNITED STATES PATENT & TRADEMARK OFFICE

**CERTIFICATE OF MAILING
37 C.F.R. §1.8**

I hereby certify that this paper and 14 exhibits submitted therewith are being deposited with the U.S. Postal Service with sufficient postage as First Class Mail under 37 C.F.R. § 1.8 in an envelope addressed to the **BOX PCT**, Attention of the PCT Legal Office, Assistant Commissioner for Patents, Washington, D.C. 20231 on July 10, 2000.


Peter J. Manso


Date

In re Application of: Jack L. Aronowitz, *et al.*
Serial No.: 09/297,649
Filing Date: September 11, 1998
International Filing Date: September 11, 1998
Priority Date: September 11, 1997
PCT Appln. No.: PCT/US98/9190
Group Art Unit:
Examiner:
Title: *Noninvasive Transdermal Systems for Detecting an Analytes*

BOX PCT

Attention of the PCT Legal Office
Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

M.P.E.P. § 409.03(d) DECLARATION

I, Peter J. Manso, declare as follows:

1. Joel R. Mitchen is a named co-inventor on the above-identified application for U.S. patent.

2. Joel R. Mitchen was an employee of Technical Chemicals & Products, Inc., whose post office address is 3344 S.W. 15th Street, Pompano Beach, Florida 33069 (hereinafter "TCPI"), at the time the subject matter described and claimed in the above-identified application for U.S. patent was invented.

3. By virtue of his employment agreements with TCPI, Joel R. Mitchen is obligated to assign his entire right, title and interest in and to the above-identified application for U.S. patent and U.S. patent application, Serial No. 08/929,262, filed on September 11, 1997 (hereinafter, the "'262 application"), along with the subject matter and inventions described and claimed in each said patent application, to TCPI. See Exhibit 1 submitted herewith.

4. The '262 application is the parent application upon which PCT Application No. PCT/US98/9190 and the above-identified application for U.S. patent are based.

5. Sometime in 1998, Joel R. Mitchen left the employ of TCPI. Joel R. Mitchen apparently relocated to: 12012 47th Avenue, Kenosha, WI 53412. This address was the last known address to TCPI, and it was the address to which Joel R. Mitchen's 1998 W-2 form was sent by TCPI. See Exhibit 2, letter from TCPI dated February 4, 2000, which responds to the Declarant's letter dated January 3, 2000 submitted herewith as Exhibit 3.

6. On September 11, 1998, PCT Application No. PCT/US98/19190 was filed in which the United States was designated as a designated state. PCT Application No. PCT/US98/19190 claims priority to the '262 application, and is the basis for the above-identified application for U.S. patent.

7. On June 7, 1999, after Joel R. Mitchen left the employ of TCPI, a Notification of Missing Requirements was mailed in the above-identified application for U.S. patent. See Exhibit 4 submitted herewith.

8. Before and during the time period between June 7, 1999 and December 7, 1999 (hereinafter, the "Response Period"), (1) TCPI, (2) the Declarant and (3) opposing counsel in a civil action filed against TCPI (hereinafter the "Civil Action") all made numerous unsuccessful efforts to locate Joel R. Mitchen.

9. During this Response Period, it was believed that Joel R. Mitchen had moved from 12012 47th Avenue, Kenosha, WI 53412 to Blue River Way, Indianapolis, Indiana and that he had

a home telephone number: (317) 334-0295. Unfortunately, Joel R. Mitchen could not be contacted at this address, no forwarding address was given, and this (371) 334-0295 telephone number was disconnected.

10. Also during this Response Period, TCPI hired a private investigator, Robert F. Kominiski, to locate Joel R. Mitchen. See Exhibit 2, and the Personal Profile Report, dated November 23, 1999, and the National Dossier, dated November 23, 1999 submitted herewith as Exhibit 5 (hereinafter, the "Kominiski Reports").

11. According to the Kominiski Reports dated November 23, 1999, Exhibit 5, a possible address uncovered for Joel R. Mitchen was: 1813 Grand East Avenue, Lindenhurst, IL 60046. No telephone number for Joel R. Mitchen at this or any Illinois address was located.

12. This address was also uncovered by opposing counsel in the Civil Action. See the NOTICE OF TAKING DEPOSITION DUCES TECUM and SUBPOENA FOR DEPOSITION DUCES TECUM, dated November 22, 1999, unsuccessfully served by opposing counsel in the Civil Action, which is submitted herewith as Exhibit 6. This subpoena was never served on Joel R. Mitchen and the deposition scheduled for December 13, 1999 did not go forward.

13. In view of this information, Declarant forwarded correspondence and a Declaration in connection with the above-identified application for U.S. patent for execution by Joel R. Mitchen to Joel R. Mitchen at this Illinois address via Federal Express on December 3, 1999. See letter from Declarant to Joel R. Mitchen, dated December 3, 1999, submitted herewith as Exhibit 7. For convenience and to ensure a timely return of the executed Declaration by Joel R. Mitchen, the Declarant included within this Fed Ex package, a return envelope and a prepaid, addressed Federal Express shipping label. See Exhibit 8 submitted herewith.

14. Unfortunately, even though this Federal Express package was delivered, it was delivered with "exception", meaning Joel R. Mitchen did not reside at this 1813 East Grand Avenue, Lindenhurst, Illinois 60046 address. See Federal Express Cosmos Tracking System for Federal Express package number 441730153216, attached hereto as Exhibit 9 (hereinafter, the "Fed Ex Report").

15. According to the Fed Ex Report, this Federal Express package forwarded by Declarant to Joel R. Mitchen at 1813 East Grand Avenue, Lindenhurst, Illinois 60046 was returned to Declarant without successful delivery to Joel R. Mitchen.

16. As a result of these unsuccessful attempts, Declarant filed the Petition under 37 C.F.R. 1.47 in the above-identified application on December 7, 1999.

17. Following the Response Period, opposing counsel continued unsuccessfully to locate Joel R. Mitchen. Opposing counsel attempted to serve a second SUBPOENA FOR DEPOSITION DUCES TECUM on Joel R. Mitchen at 3834 Oak Lake Cir. S, Indianapolis, IN 46268. See Exhibit 10 submitted herewith. Like the first subpoena, this second subpoena was never served on Joel R. Mitchen and the deposition scheduled for December 30, 1999 did not go forward.

18. On March 9, 2000, Joel R. Mitchen was located at PTS, 7736 Zionsville Road, Indianapolis, IN 46268 and telephone number (317) 879-7330.

19. Joel R. Mitchen was located through his parents, Mr. and Mrs. Joseph Mitchen residing at 12012 47th Avenue, Kenosha, Wisconsin 53412 and having a home telephone number (262) 694-7670.

20. The parents of Joel R. Mitchen and their home address and home telephone number were located by a paralegal working for the Declarant's law firm in connection with the Civil Action. The paralegal, in reviewing thousands of TCPI documents in response to discovery requests, submitted by opposing counsel in the Civil Action, stumbled upon the name of Joseph Mitchen. The paralegal thereafter looked up the name Joseph Mitchen on the Internet at the web address "anywhere.com" in an effort to locate a possible address and telephone phone number for Joseph Mitchen. The paralegal learned that Joseph Mitchen resided at 12012 47th Avenue, Kenosha, Wisconsin 53142 and that he had a telephone number (262) 694-7670.

21. On March 9, 2000, the Declarant called Joseph Mitchen at (262) 694-7670 and spoke with Mrs. Mitchen. The Declarant learned that Mr. and Mrs. Joseph Mitchen resided at 12012 47th Avenue, Kenosha, Wisconsin 53142, and that they were the parents of Joel R. Mitchen. In addition, Mrs. Mitchen gave Declarant the current home address and home telephone number for Joel R. Mitchen in Indiana. Mrs. Mitchen also provided Declarant with Joel R. Mitchen's current work telephone number (317) 870-5610 in Indiana.

22. On March 9, 2000, the Declarant called Joel R. Mitchen at his work telephone number (317) 870-5610, spoke with Joel R. Mitchen and confirmed with Joel R. Mitchen that his current home address and telephone number are PTS, 7736 Zionsville Road, Indianapolis, Indiana 46268 and (317) 879-7330.

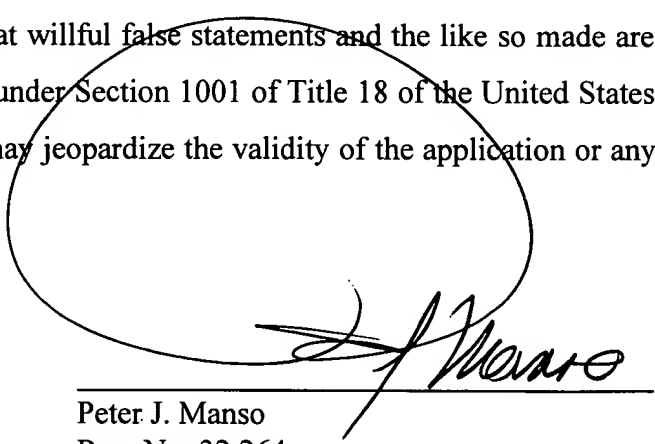
23. On June 29, 2000, the Declarant forwarded to Joel R. Mitchen at PTS, 7736 Zionsville Road, Indianapolis, Indiana 46268 correspondence including Declaration and Assignment concerning the above-identified application for U.S. patent for execution by Joel R. Mitchen. See Exhibit 11 submitted herewith.

24. On June 30, 2000, Joel R. Mitchen executed the Declaration and Assignment for the above-identified application for U.S. patent, of which copies are attached hereto as Exhibits 12 and 13, respectively.

25. I hereby disclose that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date

July 19, 2000


Peter J. Manso
Reg. No. 32,264